

**FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579**

IN THE MATTER OF THE CLAIM OF

MILDRED K. LEET

**Under the International Claims Settlement
Act of 1949, as amended**

Claim No. CU-4358

Decision No. CU 6005

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was opened by the Commission on behalf of MILDRED K. LEET while absent from the United States. Subsequent to her return she adopted this action and presented claim in the amount of \$51,191.36 based upon the asserted ownership and loss of real and personal property, and business interests, in Cuba. Claimant has been a national of the United States since birth.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Claimant has described her asserted losses as follows:

1) Space purchased in Focsa building	\$12,264.00
Registration of same	457.25
2) Architect fee and building costs	7,500.00
3) Capital investment in business	15,887.11
4) Expropriated rental space	6,450.00
5) Utility deposit	100.00
6) Personalty	<u>8,533.00</u>

\$51,191.36

The record contains copies of an affidavit by a notary-lawyer, and a public accountant concerning claimant's properties; of a letter concerning the space claimant contends was rented and then sealed; receipts for expenditures on the Focsa property, for office furnishings, for the utility deposit; an inventory of furniture and equipment for the business office; rental contract for the apartment where claimant lived; paid bills for apartment furnishings; copy of the contract for the purchase of the Focsa property; and a statement of losses and gains dated February 13, 1958.

On the basis of this record the Commission finds that claimant owned space in the Focsa building where she carried on her profession as a tri-
chologist, with appropriate equipment; and the furnishings of a rented apartment, No. 25, at 58 "O" Street, between 19 and 21st Streets, Vedado.

On December 6, 1961, the Cuban Government published its Law 989 which effectively confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who left the country.

Based on the foregoing, the Commission finds that claimant's properties in Cuba were taken by the Government of Cuba pursuant to the provisions of

Law 989; and, in the absence of evidence to the contrary, that the taking occurred on January 7, 1967, even though claimant may have remained in possession thereof for a time thereafter.

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value or cost of replacement.

FOCSA PROPERTY

On the basis of the record, the Commission finds that claimant purchased space in the horizontal property known as the Focsa Building, for \$12,264.00 (the peso being equivalent to the dollar), and related fees of \$457.25. In addition she expended \$7,500.00 in architect fees and construction costs, a total, therefore, of \$20,221.25. The property however was encumbered by a mortgage which had been reduced to \$1,492.00. Accordingly, the Commission finds that claimant's equity therein had a value of \$13,729.25, which she lost on January 7, 1967.

Claimant has contended that she temporarily rented a portion of the space, which the Cuban Government thereafter sealed. The record includes a letter in which she mentioned this to the Administrator. She contends that her loss amounted to \$6,450.00. However, the Commission finds that the record does not establish that anything due under the asserted rental contract was taken by the Government of Cuba, or that this item is not compensated in the finding of \$18,729.25, above. Accordingly, this item of claim is denied.

BUSINESS INTEREST

The record discloses that claimant carried on her professional duties in the Focsa space under the caption "Institute of American Trichology." She has submitted a copy of a Statement of Losses and

and Gains, dated February 13, 1958, which reflects assets of \$15,887.11 and liabilities of \$102.70, an apparent net worth of \$15,784.41. The assets are listed as follows:

Bank balance and cash	\$ 908.50
Accounts receivable	310.50
Furniture and equipment	9,500.00
Stock on hand	4,818.11
Rent guarantee	125.00
Trade marks	<u>225.00</u>
	\$15,887.11

The Commission has considered the aforesaid balance statement but finds that it is too remote from the date of actual loss. The record includes, however, the detailed inventory of the furniture and equipment made in 1962 and reaffirmed in 1967. The Commission finds, however, that this property was subject to depreciation at the rate of 5% per year and concludes that the residual value was \$4,316.00 on the date of loss.

The Commission further finds that claimant lost her \$100.00 deposit made for electricity in this office.

FURNISHINGS OF APARTMENT

The Commission finds that claimant owned certain furniture and furnishings in her rented apartment at 58 "O" Street, in Vedado. In this connection she has submitted an inventory thereof in affidavit form, describing the items and giving values. The Commission has examined this list and considering similar properties in other claims, finds claimant's evaluation fair and reasonable and that this property had a value of \$7,231.50 on the date of loss.

Accordingly, the Commission concludes that claimant suffered a loss in the aggregate amount of \$30,376.75 within the meaning of Title V of the Act, as the result of the taking of her property by the Government of Cuba on January 7, 1967.

The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per


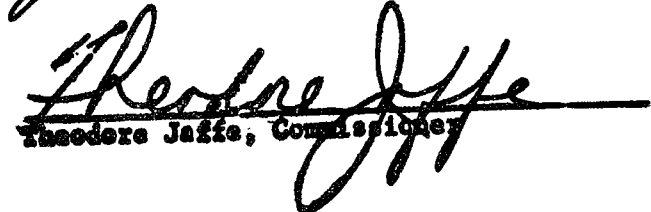
annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that MILDRED K. LEET suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Thirty Thousand Three Hundred Seventy-six Dollars and Seventy-five Cents (\$30,376.75) with interest at 6% per annum from January 7, 1967 to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

JAN 6 1971


Lyle S. Garlock, Chairman

Theodore Jaffe, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 31.5(e) and (g), as amended (1970).)